

fornia—chiropractors, osteopaths, naturopaths, et al.—to conduct the examinations of the individual cultist applicant. It is said by some advocates of the bill that this would satisfy and still the clamor of the cults. What is of more vital importance is that it would nullify the will of the people expressed at the polls upon this subject and would menace public health. We trust that those who are interested in Assembly Bill 347 will study the election returns wherein the people decisively defeated all the anti-health measures proposed by the cults.

There are no cross-cuts to scientific education and there can be no compromise with the incompetent.

We have only the primary object—the protection of the public—in mind and not the offices nor the officers of the board. Has the independent Board of Medical Examiners demonstrated its usefulness? Is there any reasonable charge of inefficiency or extravagance against it? If the present performers are efficient, economic and experienced, and they are dismissed, and an untried plan substituted for them, there must be some other object beside efficiency and economy prompting the action.

The Journal would like to take the testimony of the advocates of Assembly Bill 347, for we favor any practical plan that will produce greater efficiency and economy in promoting and protecting the public health.

#### DUE PROCESS OF LAW

##### WHAT THE CULVER DECISION MEANS

The Christian Science Monitor—the international daily newspaper of the Eddyite cult—heads the first column of its first page of January 1st, "Medical Freedom Law Upheld by California Court—Right of Exemption from Physical Examination in Schools is Sustained," etc. If it were not the custom of the international Eddyite propagandist to print deceptive articles on medical subjects we would reach the conclusion that "the Monitor" was starting the new year wrong; but the misleading character of the headlines just quoted shows that "the Monitor" is functioning normally and has made no reform resolutions for 1921.

Now what do the essential facts presented in the record of the Culver Case admitted by both parties disclose?

Under orders of the chief of police of Berkeley, a policeman attached a placard on the premises occupied as a residence by Laura Culver. Her niece, D. N., a pupil at the Berkeley High School, resided with her. In the latter part of August, 1920, there were six cases of diphtheria and one death from that disease among the students of the Berkeley High School. On September 8th the local health officer issued an order to the Berkeley superintendent of schools to the effect that cultures from the noses and throats of all pupils of the school would be taken on that day by the board

of health, and that those refusing cultures should be excluded from school until receiving written permission from the health officer to return. Eighteen of the pupils, including D. N., refused to permit the cultures to be taken. They were sent home and instructed by the school authorities not to return until they received permission from the health officer. After several days seven of these eighteen pupils, including D. N., returned and attended classes at the school, and continued, daily thereafter, to attend school without receiving any permission from the health officer. Cultures were taken from the throats and noses of 1300 pupils, and of those, 220 were designated as carriers. All but ten or twelve pupils of the school submitted to the examination. The local health officer communicated with the secretary of the state board of health, and in response to his request, on September 24th, he received from the said secretary a telegram reading as follows: "Quarantine following contacts with cases and carriers of diphtheria until they are determined not to be carriers of the infection." (Then followed the names of the seven pupils who had returned to school, including D. N.)

The placards placed upon the premises of six homes were not disturbed. The one on the Culver home was torn down. Another policeman placed a fresh placard upon the Culver premises which was immediately torn down.

The only act of Laura Culver in connection with the matter was the tearing down of the placard. "Whether this act," says Judge P. J. Langdon, the decision of the First Appellate District Court, Division Two, "which is admitted, was punishable as a crime or not is the *sole* question presented for determination." There is nothing in the decision upon "the right of exemption from physical examination in the schools." On the contrary, the decision clearly points out the broad powers vested in the board of health "to the end that epidemics may be avoided and the health of the people of the state preserved." The court declares "that every person who *after notice* shall violate or who *upon demand of any public health officer* shall refuse to conform to any rule, order or regulation prescribed by the *state board of health* respecting the quarantine of persons or places shall be guilty of a misdemeanor."

The Journal finds itself in hearty accord with this opinion. For a penal law or ordinance should be sufficiently definite for those affected by it to know their duty thereunder, and if not, it should not be sustained on the assumption that officers will exercise a wise discretion in enforcing it. "Before any citizen may be punished as a criminal it must be shown at least that a rule had been made by the board of health prior to the act sought to be punished as criminal, and such a rule must have been either so published as to give it the effect of a general rule of law, or knowledge of it must have been brought home to the person charged with its violation—"to warrant the punishment of Laura Culver for tearing down the placard it was incumbent upon the prosecution to show that a rule, order or regulation prescribed

by the state board of health had been made, and that the petitioner had notice of it or that she refused to conform to it upon demand of the health officer."

Laura Culver could not be punished for an act of her niece. "There was no order of the board of health, or its secretary, for the quarantine of the premises occupied by the niece. The order was that she should be quarantined. The distinction between the quarantine of a person and the quarantine of a place is clear—there is no rule providing for the placarding of the premises occupied by mere contacts, but only for cases of diphtheria or strongly suggestive of diphtheria. It is palpable that Laura Culver could not have notice of what did not exist."

In addition to all of these persuasive reasons the placard which caused the contention "did not meet the requirements of any form prescribed by the board of health, and it was not dated nor signed by anyone."

It is not surprising that those who deny the existence of disease and are religiously opposed to all health laws should misinterpret the scope of this decision. They fail to appreciate the importance or necessity of any health measures to protect society from disease. They also fail to appreciate that laws must be the same for all classes and must not be varied for particular individuals because they have peculiar beliefs or alleged political power. American law does not tolerate favored classes.

The good sense of mankind has definitely declared that there is disease, that certain diseases spread and can be checked, that no citizen, even though he may deny the existence of disease and death, can thereby secure any special exemption or privilege to endanger the lives of his neighbors, his children or the citizens generally.

This decision fully answers those political propagandists of the Eddyite and kindred cults, which are always denouncing the oppressive powers of health boards. It demonstrates that the judiciary will guard against the excessive use of power by health boards. If the individual health officer exceeds his power and trespasses on the rights of individual citizens they can hold him responsible. The acts of the health officer, like the acts of a judge, must be in harmony with due process of law. Neither can with impunity be arbitrary. Due process, however, is not necessarily judicial process. The powers and duties of the state board of health, in protecting society by warding off imminent danger of disease, would be ineffectual if, in emergencies, they had to wait on the formal proceedings of the courts, and the law's delays. This decision in no way limits the very broad powers entrusted to the board of health for safeguarding the public health. The highest courts have declared innumerable times that health officers who are required by law to use frequently emergency and summary measures to preserve the public health will not be prohibited from performing their essential lawful public duties. The courts deal with law and its interpretation. Judges are no more competent to diagnose disease than laymen not invested with judicial power.

Wherever it is necessary in the interests of pub-

lic health to quarantine places or persons in future the state board of health will do so based upon facts and will administer the law impartially regardless of the prejudice of peculiar people whose conduct tends to nullify all health laws.

#### IPECAC—THE PANACEA AND CURE-ALL

While on the subject of drugs and improper drug advertising, it is appropriate to mention a brochure which has apparently been issued to physicians wholesale, on the virtues of a certain preparation of ipecac. Two questions arise in this connection. The first relates to the propriety, to say the least, of a reputable drug house circularizing the medical profession with reprints or excerpts from scientific articles. The proper place for the doctor to receive authentic scientific information is through his scientific societies and journals. Only here has he assurance that commercial desires are not coloring the matter presented. Only here has he suitable facilities for weighing the pros and the cons, and making impartial decision. The flood of commercialized scientific advertising now in vogue is not in good taste, is unscientific and may be most dangerous. The doctor is always safe in consigning to the waste-basket at once all such "literature" as fast as it comes to hand.

In the second place, is to be considered the actual merit of the claim that ipecac is of such wide service as claimed in the advertising in question. We remember only a few years ago, upon the clinical introduction of emetin, how this drug was lauded as a specific and a quick specific for amebic dysentery. We know now that emetin alone does not cure amebic dysentery. We know that the clinical test of such cure is dangerous for the patient and all too often unsuccessful. Amebic dysentery is increasing fast in non-tropic countries and is a disease of serious consequences and often most difficult or even impossible of cure even with the most approved forms of treatment. Its treatment is never to be undertaken lightly. The only test of cure is repeated negative examinations of the stools over a considerable period of time, and this examination must be directed by an expert in the identification of amebic cysts.

It is unsafe at the present time to advocate ipecac for tonsillitis, typhoid, pertussis, spastic constipation, spasmodic croup, asthma, arthritis or any of an almost indefinite list of diseases for which it has been recommended. For example, it has had strong support in tuberculosis. The use of ipecac as an anti-spasmodic has not yet been divorced in the minds of scientific men from its more primary action as an emetic. This action is often employed to advantage, but it is well to realize that the effect sought is a result of a mild degree of nausea which may be so slight as not to rise to consciousness. Any brochure advocating ipecac in a series of diseases other than amebiasis, should, if honest, state the symptoms and constant dangers of ipecac or emetin poisoning. This poisoning is a matter of serious consequence and the unskilled use of this drug may easily invite trouble.

We are afflicted with a plethora of claims and advertising of drug preparations. Most of it is an insult to the intelligence, honesty and education